

Staff Summary Report



Council Meeting Date: 6-5-08

Agenda Item Number: 88

SUBJECT: Request approval of a resolution approving and authorizing the Mayor to execute the *Memorandum of Understanding Between SEIU Local 5 and the City of Tempe July 1, 2008 – June 30, 2009*.

DOCUMENT NAME: 20080605IAKJ01 **PUBLIC WORKS – MEET AND CONFER (0303-08-03)**
RESOLUTION NO. 2008.46

SUPPORTING DOCS: No

COMMENTS: Resolution 2008.46 approves the execution of a one-year MOU between the City and two employee groups represented by SEIU Local 5 – the Non-supervisory Employee Group and the Public Works Non-Supervisory Employee Group – for the period July 1, 2008 through June 30, 2009. This MOU is the result of a re-opening of the existing two-year MOU, and will supersede the 2007-2009 MOU, beginning July 1, 2008.

PREPARED BY: Ken Jones, Internal Audit Manager (350-8504)

REVIEWED BY: Charlie Meyer, City Manager (350-8884)

LEGAL REVIEW BY: David Park, Assistant City Attorney (350-8907)

FISCAL NOTE: Depending upon the results of the 2008-09 Market Survey, a transfer from the General Fund contingency might be required after January 2009.

RECOMMENDATION: Approve Resolution 2008.46

ADDITIONAL INFO: The two employee groups participating in this MOU are identified in Section 2-401(a) of the Tempe City Code.

RESOLUTION No. 2008.46

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA ("CITY"), APPROVING THE MEMORANDUM OF
UNDERSTANDING (MOU) BETWEEN SEIU LOCAL 5 AND THE CITY OF
TEMPE
JULY 1, 2008 – JUNE 30, 2009.**

WHEREAS, the City and SEIU Local 5 met and conferred and entered into a Memorandum of Understanding July 1, 2007 – June 30, 2009, which was approved by the City Council on May 31, 2007; and

WHEREAS, representatives of the City and SEIU agreed to re-open the approved Memorandum of Understanding and make changes to provisions for the period beginning July 1, 2008 and ending June 30, 2009;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

That the Memorandum of Understanding between SEIU Local 5 and the City of Tempe July 1, 2008 – June 30, 2009 is approved and that the City Manager is hereby authorized to execute said document as the authorized representative of the City of Tempe and that beginning July 1, 2008, said document supersedes the Memorandum of Understanding between SEIU Local 5 and the City of Tempe July 1, 2007 – June 30, 2009.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this fifth day of June, 2008.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



MEMORANDUM OF UNDERSTANDING
between
SEIU LOCAL 5
and the
CITY OF TEMPE

July 1, 2008 – June 30, 2009

Resulting From a 2008 Contract Re-opener
and, Thereby, Effective July 1, 2008,
Superseding the Memorandum of Understanding
Dated July 1, 2007 – June 30, 2009

As per Tempe City Code 2-400 Et Seq

Per Resolution 2008.46

Preamble

WHEREAS, the Parties, through their designated representatives, met and conferred in good faith pursuant to Tempe City Code 2-400 Et Seq in order to reach agreement concerning wages, hours, and working conditions of employees comprising both the Public Works Department and the non-supervisory employee groups, and,

WHEREAS, the Parties hereby acknowledge that the provisions of this Memorandum are not intended to abrogate the authority and responsibility of City government provided for under the statutes of the State of Arizona or the Charter or Ordinances of the City of Tempe except as expressly and lawfully limited herein,

NOW, THEREFORE, having reached this complete agreement concerning wages, hours and working conditions for the term specified, the Parties submit this Memorandum to the City Council of the City of Tempe with their joint recommendation that that body resolve to adopt its terms and take such other action as may be necessary to implement its provisions.

Definitions

For the purpose of this Memorandum of Understanding (MOU), the following definitions shall apply:

"City"	shall mean Tempe City government
"Grievance"	shall mean an alleged violation of the provisions outlined in this MOU: the process for review of a grievance is provided in Section 2-3
"Department"	shall mean any Department of the City of Tempe
"Retiree"	shall mean an individual who retires from City of Tempe service
"Union"	shall mean SEIU Local 5, Tempe Chapter
"Unit Member"	shall mean a City employee identified in Section 2-401(a)(3) of the Tempe City Code.
"Union Representative"	shall mean a representative of SEIU Local 5 designated by the Union

ARTICLE I – RIGHTS

Section 1-1 – Union Rights

1. SEIU Arizona Local 5, as the authorized bargaining representative, has the exclusive right to serve as the meet and confer representative for all non-supervisory employees as described in the Tempe City Code.
2. The Union may designate Union Representatives and shall notify the City and department managers of such designations. Following an election or appointment of new officers of the Union, the new officers will consult with their department managers and the parties will mutually arrange any necessary scheduling or workload adjustments to allow such officers to conduct Union-related business as provided by this section.
3. During the term of this Memorandum of Understanding, Union Representatives shall be released from duty with full pay when participating in a meeting with the City and/or City representatives, including any grievance hearing or disciplinary meeting with an employee. Union Representatives will also be released from duty with full pay to participate in any committee or task force established by this Memorandum of Understanding. The City will provide an additional 6,000 hours per year to be utilized by Union Representatives as authorized by the Union for the purpose of conducting Union-related business. The time utilized must be authorized in advance by the department manager.
4. Unit Members and/or Union Representatives who participate in meetings covered by this Article at times other than their normal work shift shall not receive compensation and said hours are not considered time worked for the purpose of computing overtime.
5. The City shall furnish a listing of all Unit Members and of Unit Members on City payroll deduction for union dues on a monthly basis. Included with each Unit Member's name shall be the Unit Member's current job assignment and work location; the City shall also furnish a listing of all Unit Members' email addresses. The Union agrees to use these lists solely for purposes of communicating with Unit Members and will not share this information with other individuals or organizations.
6. A. The City agrees, in conformity with Section 2-403 of the Tempe City Code, to deduct Union dues, fees and assessments, and other voluntary deduction as authorized in writing by Unit Members and to transmit such amounts to the Union each pay period. Such deductions shall be made only when the Unit Member's earnings for such pay period are sufficient after other legally required deductions are made. The Union reserves the right during the term of this agreement to increase the amount withheld for all Union Members pursuant to a generalized dues increase and agrees to give Unit Members and the City thirty (30) days' notice of any such increase.

- B. The City assumes no liability on account of any action taken pursuant to this section. The Union agrees to indemnify, defend and hold the City, its agents, employees, and officials, harmless for taking action in conformance with this section.
 - C. All Unit Members who are or become union members will remain members of the union in good standing for at least one (1) year from the date of membership enrollment. After the first year, Unit Members may withdraw their authorization for dues deduction upon written notice to the Union and the City during an annual open-enrollment period of thirty (30) days preceding the anniversary date of their enrollment.
- 7. Upon notification to the Department, a Union Representative shall be allowed reasonable contact with Unit Members on City grounds and facilities outside their work hours.
 - 8. The Union shall have the right to post notices of activities and matters of Union business on Union bulletin boards (up to 4' by 3') in each main facility in areas frequented by Unit Members. Notice of union meetings and agendas may be posted in the City's e-mail meeting folder.
 - 9. The Union shall have the right to present information at the Tempe Essentials New-Hire Orientation and to include materials in the orientation packet.
 - 10. The City shall provide the Union with City email distribution lists for unit members and union members and with a link to the SEIU Local 5 AZ web site on its Human Resources web page.

Section 1-2 – Job Security

In the unlikely event that during the term of this agreement the City anticipates a situation such as a loss of revenues that could result in the layoff of Unit Members, the City agrees to follow the guidelines of the layoff policy as established in the current Personnel Rules and Regulations.

Unit Members who believe they were selected for layoff for any reason other than seniority may appeal their selection through their department manager as established in the City's layoff policy.

The City shall notify the Union of its intent to lay off Unit Members and shall discuss alternatives with the Union no less than 90 days prior to the layoffs.

Section 1-3 – Seniority

For the purpose of this Agreement seniority shall be defined as the length of

continuous service with the City of Tempe including any approved leaves of absence for purposes of layoff. Upon the written request of the Union for Unit Members in a specified division or section of a department, seniority shall determine bidding rights for vacation, assignment of overtime, shifts and days of work, where length of continuous service can be utilized as a means of distinguishing among Unit Members their rights and ranking; without such a request, the department will maintain current practice or shall negotiate with the Union prior to establishing or revising bidding procedure. In such cases, the determination of the new procedure shall be by mutual agreement.

Section 1-4 – Right to Representation

1. Unit Members have the right to be represented by the Union at any meeting which could or will result in disciplinary action being taken against that Unit Member or any meeting involving work-related counseling for that Unit Member. The Unit Member will have a reasonable amount of time to obtain Union representation, no less than one (1) full weekday work day from the time of notification by management of the intent to hold such a meeting.
2. The City reserves the right to interview a Unit Member without union representation if the matter involves immediate serious safety concerns for the member, other employees or the public, and no Union Representative is readily available.
3. The City agrees to follow the guidelines established in the Personnel Rules and Regulations for any disciplinary process and to follow the principles of progressive discipline, just cause and due process.

Section 1-5 – Personnel Files

1. Unit Members have the right to review their own personnel file(s) maintained in Human Resources, their Department, and/or maintained by their supervisor. If the Unit Member objects to any document(s) other than those required by federal or state law, or City ordinance including the Tempe Personnel Rules and Regulations and administrative policies, the Unit Member has the right to place a Memo to File in their personnel file documenting their objections.
2. With the written permission of the Unit Member, a Union Representative may review the Unit Member's personnel file(s) when in the presence of a Department representative and obtain copies of the contents upon request. Copying fees shall be consistent with the City's public records request fee schedule.
3. With the approval of the Department Manager or designees, the Unit Member may include material relevant to his/her performance of assigned duties in the file(s).
4. Documents relating to disciplinary actions, including written letters of reprimand, demotions or suspensions, which are three (3) or more years old shall be removed from an employee's personnel file. Counseling forms or memos which are not disciplinary actions shall remain in the file(s) no longer than one year.

5. Any public request for documents relating to an employee's employment shall be communicated promptly to the employee. Confidential personal information shall be redacted prior to submission to any member of the public, including: address, phone number, Social Security number, any personal account numbers, all family member information.

ARTICLE II – LABOR-MANAGEMENT RELATIONS

Section 2-1 – Labor-Management Committees

1. There shall be a citywide Labor-Management Committee consisting of all Union representatives and representatives of the City. In addition, a staff representative of the Union shall be able to attend and observe in these meetings. The purpose of the Committee is to facilitate positive labor-management relationships by providing a forum for the free discussion of mutual concerns and ideas, which may include discussion of the implementation of major new City programs or substantial modifications of existing major City programs that will have a significant impact on service delivery, work schedules, or duties.
2. In each Department of the City with Union membership, there shall be a Departmental Labor-Management Committee consisting of an equal number of representatives of the Union and representatives of the Department. The number of representatives and agenda of the meetings shall be mutually agreed by the Union and Department. The purpose of Departmental Labor-Management Committees is to facilitate positive labor-management relationships by providing a forum for the free discussion of mutual concerns and ideas, which may include discussion of department policies, procedures, practices and working conditions.
3. The Committees shall meet monthly or bi-monthly at mutually scheduled times, and at any other mutually scheduled time.

Section 2-2 – Support of Public Services

The City and SEIU Arizona recognize our shared commitment to high-quality public services for the residents of Tempe. The parties will work together in appropriate forums on behalf of our mutual interest in supporting public services and a superior workforce in Tempe.

Section 2-3 – Grievance Procedure

1. Purpose

The purpose of this grievance procedure shall be to secure, at the lowest possible administrative level, equitable resolutions to problems that may arise and are subject to review under this procedure. There shall be no other alleged breach or appeal procedure regarding the issues covered by this Memorandum of Understanding (MOU) for the Unit Members other than that contained in this article.

2. Definitions

- A. A “breach” refers to a grievance or alleged violation of the provisions outlined in this MOU.

- B. A “complainant” shall be any Unit Member or group of Unit Members or the Union.
- C. “Days” shall mean Monday through Friday, not including holidays observed by the City.

3. Procedures

- A. Alleged breach proceedings shall be kept informal at all levels of this procedure.
- B. The number of days indicated at each level of this procedure shall be considered a maximum, and every reasonable effort shall be made to expedite the process.
- C. If the City or Department fails to comply with the time limit requirements as set forth under any of the procedure levels, the alleged breach shall be considered automatically appealed to the next level of the procedure.
- D. If the complainant fails to comply with the complainant’s time limit requirements as set forth under any of the procedure levels, the alleged breach shall be considered null and void.
- E. The time limits set forth herein may be extended, provided the extension has been mutually agreed upon by the Parties in writing.
- F. An alleged breach shall not be considered unless the complainant initiates the alleged breach procedure no later than ten (10) days after the complainant knew, or reasonably should have known of the action that precipitated the alleged breach.

4. Steps

- A. The complainant shall first discuss the alleged breach with the immediate supervisor outside the designated employee group with the objective of resolving the alleged breach. If the alleged breach is not resolved within ten (10) days, a written allegation of an alleged breach may be filed with the immediate supervisor with a copy to the Deputy Human Resources Manager. To be considered, the alleged breach must be submitted in a timely fashion and contain, at a minimum, what contractual provision(s) of this Memorandum of Understanding is alleged to have been violated, the facts constituting the alleged violation, and the relief sought.
- B. If, after ten (10) days from the date the alleged breach is filed with the immediate supervisor the alleged breach is not resolved, an alleged breach may be filed with the Department Manager or his/her designee. No later than

ten (10) days following receipt of the written alleged breach, the Department Manager or his/her designee shall hold a meeting in an attempt to resolve the alleged breach. Each party shall be entitled to bring documents and/or witnesses to the meeting in order to present evidence on their behalf. Each party shall have the right to cross-examine witnesses brought by the other party. Any non-City employee who is a witness will be paid by whichever party called them as a witness.

- C. The Department Manager or his/her designee will have ten (10) days to render a decision. If the alleged breach is not resolved with the Department Manager's decision, the alleged breach may be submitted to the City Manager. To be considered, such alleged breach must be submitted within ten (10) days of the Department Manager's decision. Within ten (10) days of receipt of the alleged breach, the City Manager may either render a decision or require that the alleged breach be submitted to advisory arbitration. The Parties are then required to participate in the following advisory arbitration process.

5. Advisory Arbitration

- A. The Arbitrator will be selected from a list of seven (7) arbitrators requested from the Federal Mediation and Conciliation Service. The moving party to the arbitration shall strike the first name from the list. The parties shall alternately strike names until there is one name remaining who shall be the Arbitrator.
- B. The Arbitrator shall conduct the hearing as soon as possible.
- C. The Arbitrator's recommendation shall be in writing and shall include the recommendation, the rationale, and if appropriate, the recommended relief. The Arbitrator shall not have the authority to expand or add to the rights Unit Members or the Union have under the terms of this Memorandum of Understanding. The Arbitrator's recommendation shall be submitted to the City Manager and the Union Representatives.
- D. The Arbitrator's fees and costs shall be shared equally by the Parties. All other expenses shall be assumed by the Party incurring the costs, including the cost of witnesses if they are not City employees. The Parties may mutually agree to share the cost of providing a verbatim record of the proceedings.
- E. In the event that the City Manager does not require advisory arbitration, the Union may require advisory arbitration prior to appealing the City Manager's decision to the City Council. Such advisory arbitration shall be conducted pursuant to the provisions provided herein.
- F. In the event that either the City Manager or the Union requires advisory

arbitration, the City Manager and the Union Representatives shall meet within ten (10) days of receipt of the advisory arbitration decision. Within ten (10) days of the meeting, the City Manager shall provide the Union with a written decision accepting, modifying or rejecting the Arbitrator's advisory decision.

6. Appeal to the Mayor & City Council

If the Union Representatives are not satisfied with the City Manager's decision, within ten (10) days of receipt of that decision the Union Representatives may appeal to the Mayor and City Council.

7. Miscellaneous

- A. No reprisal or retaliation by any party shall be taken against any person who participates or is a witness in the proceeding of an alleged breach.
- B. A complainant and the Party charged may be accompanied and represented at any hearing or meeting conducted under this procedure.
- C. A Unit Member, acting individually, may present an alleged breach without the intervention of the Union provided that the alleged breach has been processed in accordance with this procedure. Any adjustment made shall not specifically violate the provisions of this Memorandum of Understanding.
- D. If an alleged breach affects a group of two (2) or more Unit Members or involves an action or a decision by the City or the Department that has a Department-wide impact, the Union may submit the alleged breach on behalf of the affected Unit Member. If the Union presents an alleged breach for violations of this MOU, it will do so at the Department Manager's or his/her designee's level as provided in Section 4.B of this Article.
- E. All documents related to an alleged breach shall be maintained as a separate file from a Unit Member's personnel file.

All alleged breaches and alleged breach responses shall be filed and processed in accordance with this Memorandum of Understanding. The Union acknowledges that this provision waives any right to take such a dispute to any other tribunal.

ARTICLE III – WAGES & COMPENSATION

Section 3-1 – Wages

1. Step Increases

The City shall maintain step increases of 5% for all Unit Members who have not reached the maximum salary of their current salary range. These step increases will be effective the first pay period ending in July of 2008. A Unit Member who is eligible for a 5% increase, and whose salary is less than 5% from the maximum of the established range for his/her position, shall receive a step increase to the range maximum.

New employees shall receive a five percent (5%) step increase after successfully completing their probation; following completion of probation, new employees will receive a pro-rated step increase in July based upon the month in which probation was completed.

2. Market Adjustments

The City will conduct a market survey of the salaries paid in established market cities for classifications comparable to those held by Unit Members, following those cities' post-July 1, 2008 salary adjustments. Human Resources will determine the "75th percentile" of the salary maximums paid for each classification. The 75th percentile will be calculated as the average between the median maximum salary of the established market cities and the highest-paid maximum salary of those same market cities. Any budgeted pay increases in market comparison cities shall be included in market survey calculations. Employee input on market comparisons will be facilitated and reviewed by departmental Labor-Management Committees.

For the first pay period ending in January 2009, the maximums of all Unit Members' salary ranges will be adjusted to the calculated 75th percentile. All Members' actual base salaries will be adjusted by the same percentage as the adjustment made to the maximum for their respective classifications, with the following stipulations:

- a) The total increase to a Member's salary, during the fiscal year beginning July 1, 2008, resulting from step increases and market adjustments, cannot exceed 7%. However any Unit Member whose salary is below the newly-established range minimum for his/her position shall receive a salary increase to at least that new minimum.
- b) If an adjustment to a salary range causes the maximum of the range to fall below the existing maximum, the existing maximum will be maintained ("red-lined") until further market movement increases the maximum beyond the maintained amount.

3. Wage Compaction

SEIU, in conjunction with the City's Human Resources Department, will identify Unit Members whose wages have been affected by wage compaction. The following considerations will be applied:

- a) The Unit Member is being paid less than another employee in the same position who was hired into the position at a later date and who did not hire into the job classification at a higher rate of pay.
- b) The discrepancy in pay is not a result of disciplinary action.
- c) Once affected Unit Members are identified, Human Resources will adjust the Unit Member's salary to the same rate as the higher-paid employee. The adjustment will be made prior to the July 2008 step increase. Human Resources, on an ongoing basis, will monitor wage compaction issues resulting from employees' completion of initial probation.
- d) The salary adjustments will be made retroactive to July 2007 or the date that compaction first occurred, whichever date is latest.
- e) Human Resources will provide SEIU with a list of affected Unit Members, and SEIU leadership will meet with the Unit Members to review and explain the wage adjustments.

4. Bilingual Pay

The payments of \$50 per month for occasional interaction and \$125 per month for significant interaction shall remain in effect for the duration of this Agreement.

5. Shift Differential

Unit Members working a shift which ends between the hours of 10:00 p.m. and 12:00 midnight will be paid a shift differential of 65 cents per hour. Unit members working a shift which includes work between the hours of 12:01 a.m. and 4:00 a.m. will be paid a shift differential of 80 cents an hour. Shift differential is not paid to Unit Members on paid leave.

6. Stand-By Premium

The current practice shall remain in effect for the duration of this Agreement.

7. Skill-Based Pay

Employees in the Water Utilities Department who are in identified Skill Based Pay (SBP) classifications are eligible for compensation beyond their designated step pay

progression point. This additional compensation will be in the form of market increases, skill block pay, and team bonus pay, as mutually determined in the departmental Labor-Management Committee.

Section 3-2 – Overtime

1. Non-exempt Unit Members who work beyond their scheduled work shift shall be compensated for such assigned work at one and one-half (1 ½) times their regular rate after the first eight (8) minutes of assigned and worked overtime calculated to the nearest quarter hour.
2. A Unit Member shall be compensated for overtime hours worked either with pay or with compensatory time. Employees may accrue a maximum of 240 hours of compensatory time.
3. Exempt employees (employees exempt from provisions of the FLSA) may on occasion receive informal paid leave called exempt time for time worked in excess of their established work schedules. Exempt time will not be calculated hour-for-hour. Exempt time will be discussed in Labor-Management meetings.
4. The City of Tempe agrees that it is not the intent of the City to schedule bargaining unit overtime work to non-bargaining unit employees except in emergency situations or as mutually agreed. The parties agree to discuss assignments of mandatory overtime in the Labor-Management Committee(s).

Section 3-3 – Call-Back Pay

1. Unit Members called back to work after leaving City facilities upon completion of their regular shift shall be paid at one and one-half (1½) times their regular rate of pay and shall receive a minimum of two (2) hours' call-back pay. Thirty minutes of travel time to return to work duty shall be compensated at call-back rate and is included in the two hours' minimum. Premium pay received for call-back pay is included in the calculation to determine an employee's regular rate of pay for overtime purposes.
2. Unit Members called to consult about work after completion of their regular shift will be paid at time and one-half (1 ½) the regular rate of pay for each quarter hour (over 7 minutes), with a minimum of one hour's pay. There will be no compensation for calls under 7 minutes, cumulative daily.

Section 3-4 – Working Out of Classification

1. A Unit Member will be paid for temporarily working out of his/her assigned classification at the higher of the following rates: 5% above his/her regular salary or the minimum of the salary range of the higher classification. The Unit Member is entitled to such temporary detail pay for working a minimum of 8 hours performing

duties and responsibilities of a higher classification; employees providing emergency services shall be paid temporary detail pay if they work 4 hours or more in a higher-classified position.

2. A Reclassification Committee composed of Union and City representatives shall meet at least annually to review the duties, responsibilities and qualifications of bargaining unit classifications to determine whether any classifications may need further Human Resources review. The findings shall be reported to the Labor-Management Committee. The City Manager shall make the final decision on any reclassifications.

Section 3-5 – Fiscal Crisis

In the unlikely event during the term of this Memorandum of Understanding the City of Tempe experiences loss of revenues or legal requirements that if not resolved during the budget year would result in the layoff of City of Tempe SEIU unit members or the serious curtailment of services provided to the citizens of Tempe, this Memorandum of Understanding may be reopened. This provision shall only apply if the general population of City of Tempe employees is subject to the same or greater reduction of pay or benefits negotiated as a result of this reopened provision. The following provisions shall apply to this circumstance.

1. The City shall notify the chapter President in writing of the need to reopen this Memorandum of Understanding. Such notice shall include the reasons for the reopening and the anticipated amount of City-wide budget shortfalls that need to be resolved in order to alleviate the need to layoff City employees or severely curtail services provided to the citizens of Tempe.
2. The City shall supply the chapter President with all available current budget information including, but not limited to, projected revenue shortfalls.
3. The Parties shall meet and confer/negotiate in a good faith effort to reach agreement on what, if any, reduction in pay and/or benefits shall occur for Unit Members in order to address the City's budget shortfall.
4. The meet and confer/negotiation process will be for a period of no less than 30 calendar days. During this 30-calendar day period, the Parties shall meet at least weekly unless mutually agreed otherwise.
5. If the Parties are unable to reach an agreement on the issues identified for this process, the issues will be submitted directly to the City Council, which shall make a final determination. The determination of the City Council shall be final and binding on the Parties.

ARTICLE IV – HOURS & LEAVE

Section 4-1 – Hours of Work

1. The regular work week for full-time employees is forty (40) hours. By mutual agreement work schedules may be arranged in any manner consistent with departmental operations to include more than eight (8) hours in any single 24-hour day. The parties agree to discuss alternate work schedules in a departmental Labor-Management Committee meeting at the request of either party.
2. Employees are entitled to be relieved from duty for an unpaid lunch break of 30 to 60 minutes and, under normal circumstances, for two paid 15-minute rest periods per shift.

Employees who must remain on duty during their entire shift are paid for their one-half (1/2) hour lunch period.

3. Any proposed changes to an employee's regular work schedule that are not temporary and do not involve a response to necessary public safety or emergency situations or City Council directives shall be communicated to the affected employee(s) at least 15 work days prior to implementation and at the Union's request shall be discussed in a Labor-Management Committee meeting. The requirements of this paragraph may be waived by mutual consent.

Section 4-2 – Holidays

1. Paid holidays are as follows (with holidays falling on Sunday observed by the City on the following Monday and holidays falling on Saturday observed the preceding Friday):
 - New Year's
 - Martin Luther King's Birthday
 - President's Day
 - Cesar Chavez Recognition Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Veterans Day
 - Thanksgiving Day
 - Friday following Thanksgiving Day
 - Christmas Day
 - 1 Personal Leave Day of the number of hours in an employee's normal workday, which may be taken any time during the calendar year or received as 8 hours of pay in January of the following year if unused
 - Winter Holiday Leave of four (4) hours to be used between dates in mid-December and mid-January to be specified by the City Manager; any holiday leave not utilized during that period will be forfeited.

2. Non-exempt unit members who are required by their supervisor due to operational necessity to work on a city recognized holiday shall receive one and one-half (1.5) times their regular rate of pay, or one and one-half (1.5) times the hours in Compensatory Time, in addition to their holiday pay for each hour worked. Election of Holiday Premium Pay or Holiday Compensatory Time shall be at the employee's discretion.

Exempt unit members required by their supervisor to work on a city recognized holiday and who cannot be given a substitute day off within the same pay period may receive one (1) day's pay, eight (8) hours, at their regular rate (not overtime) as additional compensation for the holiday worked.

Non-exempt and exempt employees will be given a substitute day off with pay if operationally possible when a city recognized holiday falls on a non-work day. The substitute day shall be taken during the same pay period as the holiday. If the employee's supervisor cannot approve a substitute holiday day off during the same pay period due to operational needs, the employee will receive one (1) day's pay at his or her regular rate (not overtime) in additional compensation for the holiday. Vacation leave, compensatory time and personal or wellness day(s) shall not be utilized in the place of a substitute holiday.

3. In the event the City celebrates one of the following holidays on a day other than the actual holiday and the actual holiday is a regularly scheduled work day for a Unit Member, that employee may choose to have either the actual day or the day celebrated by the City designated as the holiday:

New Year's
Cesar Chavez Recognition Day
Independence Day (4th of July)
Christmas Day

4. Whenever reasonably practicable, employees shall be given at least seven (7) days' notice of holiday work assignments. Exemptions from holiday assignment will be discussed and mutually agreed in departmental labor-management meetings.

Section 4-3 – Vacation

1. Unit Members on a forty (40) hour work schedule will accrue vacation in accordance with the following schedule, to be prorated for employees working a part-time schedule. Accrual amounts are based upon continuous service as a City of Tempe employee.

0 to completion of 5 years of City service	9.33 hours per month
After completion of 5 years, but less than 10 years	11.33 hours per month
After completion of 10 years, but less than 15 years	13.33 hours per month
After completion of 15 years, but less than 20 years	16.67 hours per month
After completion of 20 years	18 hours per month

2. Maximum vacation accrual shall be 450 hours.
3. Unit members who have completed their fifteen-year anniversary with the City are eligible for a one-time extended four-week leave of absence, including two weeks of an employee's accrued vacation leave and an additional two weeks of City-paid time. The additional two weeks of sabbatical leave may not be converted to cash-out payment or utilized in the last six months of employment.

Section 4-4 – Medical Leave

1. Full-time regular and probationary Unit Members on an active pay status accrue eight (8) hours of medical leave each month. Regular part-time Unit Members receive a pro-rated amount of medical leave.
2. Medical leave may be used for illness or incapacity of the Unit Member, or for medical, dental, vision or mental health appointments during working hours. Medical leave may also be used for any of the above reasons for a family member, defined as spouse or domestic partner, parent (incl. in-law and step), child (incl. in-law and step), sibling (incl. in-law, half, and step), grandparent (incl. in-law), or grandchild (incl. step).

Unit Members shall not be visited at home for the purpose of verifying medical leave. This provision does not apply to investigations of Workers' Compensation claims.

3. Maximum accrual of medical leave shall be unlimited. By the deadline established each year, the Unit Member may elect for the following year to cash out medical leave accrued that year in excess of 480 hours at a rate of 25%, or may convert medical leave in excess of 480 hours to Health & Wellness leave at a rate of 50% (up to 2 days of leave, to be utilized by the end of that calendar year), or may let the medical leave accrue above the 480 hours.
4. Unit Members retiring from the City in good standing shall receive 50% of all accrued medical leave in the form of cash or vacation leave. The Unit Member will be reimbursed at an hourly rate equal to the Unit Member's hourly rate at time of retirement.

Section 4-5 – Bereavement Leave

1. Upon the death of a family member, an employee shall receive up to five (5) working days (based on the employee's normal work schedule) of paid leave not chargeable to medical or vacation leave. Family member is defined as spouse or domestic partner; child (incl. step and in-law); parent (including step and in-law); sibling (incl. half, step and in-law), aunt or uncle; niece or nephew; grandparent (incl. in-law) or grandchild (incl. step).
2. Bereavement Leave does not have to be used consecutively.

Section 4-6 – Disability Leave

1. The City shall continue to administer Compassionate Leave, allowing employees to transfer unused vacation and medical leave to another regular employee to provide the recipient with supplemental paid leave during an extended non-job related, seriously incapacitating illness or injury of the employee or a member of the employee's immediate family or for other extenuating circumstance. The value of donated leave is based on the donor's hourly rate of pay as it relates to the recipient's hourly rate of pay. A recipient who returns to work on a part-time basis may use compassionate leave intermittently until he or she is able to resume his or her regular duties.
2. Unit Members are eligible for up to 160 hours of paid Catastrophic Leave per calendar year; this amount will be prorated for part-time Unit Members. Catastrophic leave may be taken for an employee's own illness or injury or to care for an immediate family member with a serious health condition, and may be taken consecutively or intermittently.
3. Each Unit Member shall be entitled to seventeen (17) work weeks of FMLA leave during a twelve (12) calendar month period if the leave is taken for the birth or adoption of a child or to care for a sick parent (including parent-in-law or step-parent).
4. Two or more Union Representatives will participate in the Leave of Absence Committee currently established by the city to research the feasibility of making available to all Unit Members a short-term disability policy and shall make recommendations to the Labor-Management Committee.

Section 4-7 – Industrial Leave

Unit Members are covered by the City under the Arizona State Worker's Compensation Act against injuries, illness or disease occurring in the course of City employment.

If a Unit Member is absent from work as a result of an injury, illness, or disease that is covered under the Arizona State Worker's Compensation Act, the absence is considered industrial accident leave. For absences of one (1) to seven (7) calendar days, Unit Members are compensated 100% of their regular base rate of pay without loss of any medical or vacation leave. For absences over seven (7) days, Unit Members are compensated 95% of their regular biweekly base rate of pay from the City for up to twelve (12) months. Beyond twelve (12) months, Unit Members are compensated in accordance with the Arizona Worker's Compensation Act. Unit Members may voluntarily supplement their Worker's Compensation benefit with accrued medical and vacation leave. The amount that may be supplemented is the difference between the Worker's Compensation

benefit and the Unit Member's net take-home pay, plus voluntary payroll deductions. The amount of a Unit Member's Worker's Compensation benefit shall not exceed his/her regular base rate of pay.

ARTICLE V – WORKING CONDITIONS

Section 5-1 – Health & Safety

The City of Tempe acknowledges its responsibility to provide safe, healthful work environments for City employees and users of City services. Every employee has the right to safe and healthful working conditions.

Upon request of the Union, the City or a department will meet with the Union to discuss and address safety concerns relating to the facilities where Unit Members are assigned to work.

Where the Unit Member has a good faith belief that a work assignment presents health and safety risks outside those normally associated with the work, he/she may refuse to begin or continue a work assignment. When in such a case a Unit Member declines to begin or continue a work assignment, he/she shall notify his/her in-house safety officer of the situation. The in-house safety officer shall promptly investigate the complaint. While the Unit Member is awaiting the arrival of the in-house officer, and until the officer has made his/her determination, the Unit Member shall not be required to perform the disputed assignment.

Unit Members shall not be subject to discipline or retaliation for exercising any right under the OSHA act.

Section 5-2 – Training & Career Development

The City of Tempe supports the development of career counseling and various programs of training, retraining, mentoring, and career development for Unit Members, to be coordinated between Human Resources, City departments, and the Union. The City will offer fair and reasonable access to training for skills and certifications needed for promotions within the City.

The Parties agree to jointly advocate for the inclusion of public employees in any future local, state, or federal legislation providing for training and retraining programs.

Recognizing that proper training and mentoring of City employees promotes efficient and cost-effective public service, the parties agree to place these issues on the agenda of the joint Labor-Management Committees established by this Agreement. Recommendations may include but not be limited to, training for promotional opportunities, creation of career counseling programs, and work-related certification. Decisions shall be made by mutual agreement, subject to approval as required by applicable law.

Section 5-3 – Bidding on Vacancies

1. When the City seeks to fill a regular permanent or a regular part-time vacancy, the City will make Unit Members aware of those vacancies through the posting of vacancies, including shift, hours, position, assignments, days off and work location, to be posted for at least two (2) weeks, unless mutually agreed otherwise, in the Department's office, on official bulletin boards, and at other mutually agreed upon locations.
2. Bidding for shifts or work locations for all Unit Members shall continue by current practice. Upon the written request of the Union, the City or any Department shall negotiate with the Union to establish or revise a bidding procedure. The determination of the bidding procedure shall be by mutual agreement. Such procedure shall be in compliance with all state and federal laws.
3. The issues of requirements and processes for career advancement of Unit Members shall be considered by the Labor-Management Committees established under Section 2-1.

Section 5-4 – Job Descriptions

The City agrees to review with Union Representatives any substantial change in job duties and/or any proposed changes to the "Examples of Duties" and/or the "Experience and Training Guidelines" for any job descriptions of Unit Members, at least 30 days prior to implementation.

Section 5-5 – Uniforms & Equipment

During the term of this Memorandum of Understanding, the Parties agree to discuss and review Department policies for providing Unit Members' uniforms, clothing and equipment allowances within the framework of the Labor-Management Committees established by this MOU.

Public Works unit members eligible for a uniform credit as of the date of ratification of this MOU will receive an annual credit of \$125.00 to be used in accordance with Department policy. Eligible unit members will receive a jacket every other year. The tool allowance shall be \$500.00 per year for eligible unit members.

Police Department unit members eligible for a uniform credit will receive reimbursement each calendar year per the following schedule:

Detention and Transport Employees	\$900.00
Park Rangers, CSO's and Traffic Enforcement	\$900.00
Identification and Property Employees	\$900.00

Unit members required to wear a vest will receive a credit of \$1,100 toward the purchase of a vest when the employee's current vest reaches expiration.

Unit members eligible to receive safety boot and/or jean allowances or any other clothing, cleaning or equipment allowances as of the date of ratification of this MOU will continue to receive those allowances to be used in accordance with Department policy.

Replacement clothing due to work-related damage shall be paid upon approval.

Section 5-6 – Light Duty

1. The purpose of the Light Duty policy is to attempt to provide assistance to Unit Members who are recovering from a medically documented mental or physical illness or injury sustained on or off the job. If such an illness or injury precludes a Unit Member from performing the essential functions of his/her job, the City will make an effort to provide work assignments consistent with the individual's skills and abilities and such that the City will derive benefit.
2. During the period a Unit Member is on light duty, the Unit Member's base rate of pay will be maintained. Unit Members shall receive overtime pay after 40 hours of work in the workweek.
3. Light duty work is intended only for Unit Members with temporary illness or injury, and may be provided only if there is a reasonable expectation that the Unit Member can resume his/her duties within the time periods established by the City.
4. The City shall share aggregate information with the Union on the disposition of Unit Members' requests for light or modified duty and on displacement of Unit Members from their assignments due to the light duty assignment or other temporary assignment of any other employees. The parties agree to discuss these issues in the Labor/Management committee setting if requested by either party.

ARTICLE VI – BENEFITS

Section 6-1 – Maintenance of Existing Benefits

The Parties agree and Tempe City Code 2-400 Et Seq confirms that in the event of a conflict between the City of Tempe Personnel Rules and Regulations and attachments thereto, department policies and procedures, other Council-approved programs, and this Memorandum of Understanding, the Memorandum of Understanding shall govern. If there is no conflict between the above referenced documents, the Parties are governed by the Personnel Rules and Regulations, attachments thereto and Council-approved programs. In the event all such formerly referenced documents are silent on a particular issue, the City Manager and/or designee shall retain the right to exercise judgment on all such matters.

If, during the term of this Agreement, the City anticipates either a substantive change in the benefits not included in this MOU, but provided to Unit Members through the City of Tempe Personnel Rules and Regulations and attachments thereto and other Council-approved programs, or other revision of the City's Rules and Regulations, the City shall meet with the Union to explain the reasons for the change, shall meet and confer regarding the potential impact of such changes, and shall allow the Union to propose alternatives to the changes at least 45 days prior to making such changes (except in the case of an emergency or unless such time period is waived by the Union). In the event of administrative memoranda or changes reviewed or adopted by the City Council, the City shall advise Council of the Union's recommendations concerning such proposed changes prior to implementation.

The purpose of the provisions of this Article is to continue to provide current financial benefit levels, as that terminology is customarily defined as part of the employees' overall compensation package.

Such other benefits, allowances, terms and conditions of employment as may be negotiated or implemented affecting other bargaining units within the City of Tempe shall, at the request of the Union, necessitate a meet and confer process with the City of Tempe.

Section 6-2 – Health Insurance

1. The City shall maintain all current medical, dental and vision benefits at the levels established for implementation on July 1, 2007 and on the same cost-allocation basis. The City shall implement a revised pharmacy benefit on September 1, 2007 as part of the medical plan and shall provide unit members with information regarding adjusted co-payments for prescription drugs. Any other projected increase in costs or change in benefits shall result in a meet and confer process to discuss the potential impact upon Unit Members.
2. The City shall offer the Union opportunities for input in the consideration, review and planning of any prospective changes to retiree health care benefits. The Union's

recommendations regarding such prospective changes shall be communicated to City Council prior to action by Council to implement changes.

3. The City shall continue to provide health insurance benefits to Unit Members' designated domestic partners.
4. The Union shall be entitled to appoint at least two Unit Members to the City's Health Insurance Evaluation Committee related to the provision and maintenance of health insurance for City employees, including the reviewing of the Request for Proposal, the evaluation of the submitted proposals and the recommendation of the preferred provider.
5. The City and SEIU Arizona will explore potential options (such as pooling health care benefits among multiple public employers) for providing the existing package or improvements to employees' health care benefits.

Section 6-3 – Deferred Compensation

1. Beginning in the first pay period ending in July, 2007, Unit Members who contribute into the City's deferred compensation plan shall be eligible to receive matching deferred compensation contributions from the City, as follows:

Less than 7 years of service	up to \$10 per pay period
After 7 years but less than 15 years	up to \$20 per pay period
After 15 years of service	up to \$30 per pay period

2. Each City contribution in paragraph 1 will be made into the City's 401(k) deferred compensation plan. The Unit Member has no immediate tax obligation under the 401(k) plan.

Section 6-4 – Tuition Reimbursement

1. Unit Members will receive tuition reimbursement up to a maximum of \$5,000 per fiscal year for full-time employees; tuition reimbursement includes the cost of tuition, required textbooks, supplies and related fees. The City of Tempe Tuition Reimbursement Policy guidelines outlined in the Rules and Regulations as of the date of this Agreement and Section 127 of the IRS Tax Code will govern the requirements for receiving tuition reimbursement.
2. The City will endeavor to continue to make the Education Partnership program available to Unit Members.
3. Unit Members will receive paid release time to participate in coursework necessary for maintaining certification(s) and training required for their position. These required certification and training costs will be paid by the unit member's department.

Section 6-5 – Life Insurance

1. The City will continue the existing off-the-job and on-the-job life and dismemberment insurance coverage. The policy shall provide a benefit for each Unit Member equal to the Unit Member's base annual salary. The City will continue to provide to each Unit Member a \$250,000 death benefit covering the Unit Member's commutation to and from his/her City work location. This policy will be consistent with the City's current group insurance, and will cover the Unit Member's commute for up to two (2) hours before his/her shift begins and two (2) hours after his/her shift concludes.
2. In the event of the death of a Unit Member while commuting to or from his/her work location, the City will continue to pay the full health insurance premium for the spouse, domestic partner and all eligible dependents in accordance with City policy.
3. Two or more SEIU representatives may serve on any committee formed to consider possible changes to City's life insurance policy.

Section 6-6 – Mediflex

The City will continue to contribute into the Mediflex program on the following schedule:

Years of Service	Annual Mediflex Contribution
3	\$190
4	\$305
5 or more	\$650

Unit Members may utilize funds in their Mediflex account for reimbursement of medical expenses, and any unused amounts will stay in an employee's Mediflex account from year to year. The Mediflex balance of any employee who has completed 10 years of service will be available to him/her following retirement from the City.

Complete Agreement

The Parties agree that this is the complete and only agreement between the Parties once approved by the City Council. Each party has negotiated on all issues identified for negotiations and such negotiations have led to this agreement. No additional negotiations will be conducted on any item, whether contained herein or not, except by mutual agreement of the Parties. This Agreement replaces any and all previous agreements between the Parties.

This Memorandum constitutes the total and entire agreement between the Parties and no verbal statement shall supersede any of its provisions.

Term & Effect

This Memorandum shall become effective July 1, 2008, and remain in full force and effect until June 30, 2009 in accordance with the provisions of Tempe City Code Section 2-400 et seq. Only by mutual consent of both parties may this agreement be reopened, with the exception of conditions outlined in Sections 3-1, 3-5, 6-1 or 6-2.

Should any part hereof or any provisions herein be declared invalid by a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof and the remaining portions hereof shall remain in full force and effect for the duration of the Agreement.

With approval of the City Council IN WITNESS HEREOF, the parties hereto have executed this MOU this _____ day of _____, 2008.

CITY OF TEMPE, a municipality

City Manager

SERVICE EMPLOYEES INTERNATIONAL UNION LOCAL 5 ARIZONA, a union

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk